

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1716 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

M J GINWALA

Versus

UNIVERSITY GRANTS COMMISSION

Appearance:

MS SANGEETA PAHWA for Petitioner
MR AK CLERK for Respondent No. 1
MR SAURIN MEHTA for Respondent No.2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/04/99

ORAL JUDGEMENT

1. Shri Clerk, who is appearing for the University Grants Commission, New Delhi, states that he has no instruction in the matter.

2. This special civil application has come up for admission before this Court on 9th March, 1995, on which date, this Court has issued notice to the respondents

returnable on 30th March, 1995 and now this petition has come up for hearing after more than four years of the filing of the same. Total contribution of the University Grants Commission in this case is only to engage an advocate and not to give the instructions to him as well as not to file reply to the special civil application. In absence of reply from the side of the University Grants Commission, whatever averments made by the petitioner in this special civil application has to be taken as uncontroverted.

3. The petitioner prayed for direction to the U.G.C. for release of the grant by way of financial assistance under the Teacher Fellowship Scheme - VIII Plan to the order of Rs.49,442/- due to the petitioner by way of outstanding salary and other allowances along with the interest at the rate of 18 % per annum from the due date till the actual date of realisation. By way of interim relief, the petitioner prayed for direction to the respondent No.1 to deposit the aforesaid amount and interest in the Court.

4. On 10th April, 1995, this matter had come up for consideration before this Court and from the order of this court of even date, I find that the cheque of Rs.40,000/- was given to the counsel for the petitioner. So far as the balance amount as well as the claim of the petitioner for interest and outstanding amount is concerned, naturally the matter has not been decided. It has to be decided later on. Then the matter came up before this Court on 15th March, 1996 and the counsel who was appearing for University Grants Commission made a statement that in addition to a sum of Rs.40,000/-, which is already paid to the petitioner, a sum of Rs.6901/- has further been sanctioned for payment thereof to the petitioner on 1-2-1996. By way of interim relief, this court ordered that whatever amount according to respondents No. 1 and 2 remains payable to the petitioner should be paid within four weeks from today. Learned counsel for the petitioner does not dispute that on 10th April, 1996, the petitioner has been paid Rs.6901/-.

5. Learned counsel for the respondent No.2 does not dispute the claim of the petitioner for outstanding amount of salary as well as the interest claimed for nonpayment thereof. So far as the respondent No.1 is concerned, it is also not contesting this claim of the petitioner which is borne out from the facts that the counsel who put appearance for it has no instructions in the matter and secondly, reply has not been filed. In

view of these uncontroverted facts, the claim of the petitioner has to be accepted in toto.

6. In the result, it is hereby directed to the respondent No.1 to pay the balance of the amount of Rs.49,442/- which remains to be paid to the petitioner within a period of one month from today. So far as the claim of the petitioner for interest at the rate of 18% is concerned, it also deserves to be granted. It is the amount of salary of the petitioner which has been withheld by the respondent No.1 without there being any justification whatsoever. The petitioner has been put to suffer manifold inconveniences. It is not unknown that in these days of high prices of essential commodities, it is very difficult for the employees and the officers to meet out day to day expenses of bare necessities of life. However, whatever sufferings actually the petitioner suffered is difficult to compensate but this claim of the petitioner for interest at the rate of 18% p.a. deserves to be granted. Accordingly, the respondent No.1 is directed to pay interest on the amount of Rs.49,442/- from due date till the date of payment at the rate of 18 % per annum. This amount of interest payable to the petitioner has to be calculated by the respondent NO.1 forthwith and it has to be paid to the petitioner also along with the balance amount of the outstanding amount.

7. The special civil application and Rule stand disposed of in the aforesaid terms. It is a fit case where the costs has to be awarded in favour of the petitioner of this litigation. However, learned counsel for the petitioner, on being asked by the Court, submitted that probably she has not charged the fees from the petitioner. In view of this statement of the learned counsel for the petitioner, no order as to costs.

zgs/-